

House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 86

HOUSE BILL 2291

AN ACT

AMENDING SECTIONS 45-411.01 AND 45-519, ARIZONA REVISED STATUTES; RELATING TO
THE GROUNDWATER CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 45-411.01, Arizona Revised Statutes, is amended to
3 read:

4 45-411.01. Exemptions from irrigation water duties,
5 conservation requirements for distribution of
6 groundwater and portions of groundwater withdrawal
7 fee for portions of Phoenix active management
8 area; fee; review

9 A. Each person who is entitled to use groundwater pursuant to an
10 irrigation grandfathered right under article 5 of this chapter on irrigation
11 acres located within the area delineated for exemption under subsection E of
12 this section is exempt, beginning January 1, 1989 THROUGH DECEMBER 31, 2024,
13 from any irrigation water duties or intermediate water duties established or
14 required to be established for those irrigation acres in the management plans
15 for the first, second, third, and fourth AND FIFTH management periods for the
16 Phoenix active management area adopted pursuant to article 9 of this chapter.

17 B. The Arlington canal company, the Buckeye water conservation and
18 drainage district and the St. John's irrigation district, or their
19 successors, are exempt, beginning January 1, 1989 THROUGH DECEMBER 31, 2024,
20 from any applicable conservation requirements for the distribution of
21 groundwater established in the management plans for the first, second, third,
22 and fourth AND FIFTH management periods for the Phoenix active management
23 area adopted pursuant to article 9 of this chapter.

24 C. No groundwater withdrawal fee shall be levied or collected pursuant
25 to section 45-611 and no water quality assurance fee shall be levied or
26 collected pursuant to section 45-616 for:

27 1. Groundwater withdrawn during calendar years 1989 through ~~2019~~ 2024
28 for irrigation use on irrigation acres within the area exempted from
29 irrigation water duties and intermediate water duties under subsection A of
30 this section.

31 2. Groundwater withdrawn and used in the area delineated for exemption
32 under subsection E of this section during calendar years 1999 through ~~2019~~
33 2024 for a non-irrigation use pursuant to section 45-519, subsection B, if
34 the user of the groundwater pays a fee of five hundred dollars to the
35 director by March 31 of each year following a year in which the groundwater
36 was used. The director shall deposit, pursuant to sections 35-146 and
37 35-147, the monies collected under this paragraph in the water quality
38 assurance revolving fund established by section 49-282.

39 D. Except as provided in subsection G of this section, a water duty
40 exemption fee of twenty-five cents per irrigation acre per year shall be paid
41 to the department for each irrigation acre in the exempted area. The water
42 duty exemption fee shall be paid to the department no later than March 31 of
43 each year from 1990 through ~~2020~~ 2025 for the preceding year by each person
44 who owns irrigation acres within the exempted area as of December 31 of the
45 year preceding the date the payment is due except that, if the Arlington

1 canal company, the Buckeye water conservation and drainage district or the
 2 St. John's irrigation district, or a successor, delivers water to the
 3 irrigation acres during the year preceding the date payment is due, the fee
 4 shall be paid by the company or district delivering water to the irrigation
 5 acres. If a person who is required to pay a fee pursuant to this subsection
 6 fails to pay the fee for the calendar year in question on or before March 31
 7 of the following year, the director may assess and collect a penalty of ten
 8 ~~per-cent~~ PERCENT of the unpaid fee, without compounding, for each month or
 9 portion of a month that the fee is delinquent. The total penalty assessed
 10 under this subsection shall not exceed sixty ~~per-cent~~ PERCENT of the unpaid
 11 fee. The director shall deposit, pursuant to sections 35-146 and 35-147, all
 12 monies collected by the department under this subsection in the water
 13 resources fund established by section 45-117.

14 E. The boundaries of the exempted area under this section are
 15 delineated on a map of the Phoenix active management area filed in the office
 16 of the secretary of state on May 12, 1988. A true copy of the map filed in
 17 the office of the secretary of state shall be on file in the department and
 18 shall be available for examination by the public during regular business
 19 hours.

20 F. The director shall review the hydrologic conditions within the area
 21 delineated on the map filed in the office of the secretary of state pursuant
 22 to subsection E of this section. The director shall consult with
 23 representatives of the Arlington canal company, the Buckeye water
 24 conservation and drainage district and the St. John's irrigation district, or
 25 their successors, AND ALL CITIES AND TOWNS WITHIN THE EXEMPTED AREA, on the
 26 scope of the review before beginning the review and on the status of the
 27 review periodically during the course of the review. The director shall
 28 submit a recommendation to the governor, the president of the senate and the
 29 speaker of the house of representatives no later than December 15, 2015 2019
 30 regarding extending the exemptions established in this section.

31 G. A person who owns an irrigation grandfathered right appurtenant to
 32 ten or fewer irrigation acres located in the exempt area is exempt from the
 33 payment of a water duty exemption fee for the acres prescribed by subsection
 34 D of this section unless the irrigation acres are part of an integrated
 35 farming operation. The exemption provided by this subsection does not apply
 36 to the Arlington canal company, the Buckeye water conservation and drainage
 37 district or the St. John's irrigation district, or any successor, in any year
 38 in which the company or district delivers water to the irrigation acres.

39 Sec. 2. Section 45-519, Arizona Revised Statutes, is amended to read:

40 45-519. Drainage water withdrawal permit; conditions for
 41 issuance

42 A. A person may apply for and the director may issue a drainage water
 43 withdrawal permit if the director determines that drainage of irrigated lands
 44 is necessary for a reasonable economic return from agricultural production in
 45 respect to those lands and the withdrawal of such groundwater is consistent

1 with the management plan and achievement of the management goal for the
2 active management area.

3 B. The holder of a permit issued under subsection A of this section
4 may:

5 1. Use groundwater withdrawn pursuant to the permit for a non-
6 irrigation use if the person holds a non-irrigation grandfathered right
7 pursuant to article 5 of this chapter, a general industrial use permit
8 pursuant to section 45-515 or a service area right pursuant to article 6 of
9 this chapter.

10 2. Convey groundwater withdrawn pursuant to the permit to another
11 person for a non-irrigation use if the person receiving the groundwater holds
12 a non-irrigation grandfathered right pursuant to article 5 of this chapter, a
13 general industrial use permit pursuant to section 45-515 or a service area
14 right pursuant to article 6 of this chapter.

15 C. When determining compliance with the applicable conservation
16 requirements established pursuant to sections 45-565, 45-565.01, 45-566, and
17 45-566.01, 45-567, 45-567.01, 45-568 AND 45-568.01, the director shall
18 account for groundwater withdrawn pursuant to a permit issued pursuant to
19 subsection A of this section as surface water if the groundwater is withdrawn
20 BEFORE JANUARY 1, 2025 from within the boundaries of the exempted area
21 prescribed by section 45-411.01, subsection E and is used pursuant to
22 subsection B of this section at a turf related facility or riparian habitat
23 within the exempted area. The director shall cease accounting for the
24 groundwater as surface water ~~upon~~ ON expiration of the exemptions provided
25 for in section 45-411.01 or ~~upon~~ ON termination of the permit, whichever
26 occurs first.

27 D. The director shall monitor withdrawals of groundwater pursuant to a
28 drainage water withdrawal permit and shall terminate the permit if the
29 conditions for issuance specified in subsection A of this section no longer
30 apply. A permit issued pursuant to this section may be renewed subject to
31 the same criteria used in granting the original permit.

APPROVED BY THE GOVERNOR MARCH 30, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 31, 2016.

Passed the House February 25, 2016

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

☐ Pro Tempore

[Signature]
Chief Clerk of the House

Passed the Senate March 24, 2016

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

29th day of March, 2016

at 3:37 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 30th day of

March

at 1:39 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 31 day of March, 2016

at 4:45 o'clock P. M.

[Signature]
Secretary of State

H.B. 2291